



WA(MD). No.2278 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 08/11/2024

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH
AND
THE HONOURABLE Dr.JUSTICE A.D.MARIA CLETE

WA(MD). No.2278 of 2024
and CMP(MD) No.15975 of 2024

1. The State of Tamil Nadu,
Represented by its Secretary
Department of School Education
Fort St. George, Chennai 600 009.

2. The Director of School Education,
College Road, Chennai 600 009.

3. The Chief Educational Office,
Tuticorin 628 002
Tuticorin District

4. The District Educational Officer
Tuticorin
Tuticorin District

... Appellants

Vs

The Manager & Correspondent
CM High Schools
T.R.Naidu Street
Tuticorin
Tuticorin District

... Respondent



WA(MD). No.2278 of 2024

PRAYER :- Writ Appeal filed under Clause 15 of Letters patent against the order of this Court dated 26.07.2024 in WP(MD). No. 17140/2024.

For Appellants : Mr.J.Ashok
Additional Government Pleader
For Respondents : Mr.K.Ragatheesh Kumar for
M/s.Isaac Chambers

JUDGMENT

(Judgment of the Court was delivered by M.S.RAMESH, J.)

Challenge is made to the order of the writ Court dated 26.07.2024 in WP(MD) No.17140/2024.

2. The learned Additional Government Pleader would submit that,

(i) the respondent school, which is a minority school, would have no right to upgrade the sanctioned post without proper permission of the concerned authorities; and

(ii) the approval of appointment of the Teacher in the respondent school could not be granted on the ground that the Teacher does not possess a pass in the Teacher's Eligibility Test (TET);

On these grounds, he seeks for setting aside the order of the learned Single Judge.



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3. We are unable to endorse the grounds raised by the learned Additional Government Pleader for the following reasons:

(i) Firstly, the first ground does not appear to have been taken by the appellants before the learned Single Judge and having failed to do so, we will not be in a position to interfere with the order of the learned Single Judge;

(ii) Secondly, the issue with regard to rights of minority schools upgrading sanctioned posts has already been dealt with in several writ petitions as well as by the Division Benches of this Court holding that a minority institution will be well within its power to upgrade a sanctioned post. One such case of the coordinate Bench of this Court is the Chief Educational Officer, Tirunelveli and another v. S. Josephin Vijaya and another, dated 14.12.2017 in WA (MD) No.1497/2017;

(iii) Thirdly, this Court in exercise of its power under Article 226 of the Constitution of India has been consistently holding that a pass in the Teacher's Eligibility Test is not a mandatory pre-requirement for appointment of a Teacher in a minority school and that the educational authorities have no authority to reject a proposal for approval of such



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appointment made. The orders of the Division Benches of this Court in **W.A.No.179 of 2024**, dated **22.01.2024** [**The Government of Tamil Nadu, Rep. by its Additional Chief Secretary, Department of School Education and others vs. T.Selvarani and another**] and in **W.A. (MD)No.670 of 2024**, dated **12.04.2024** [**The District Educational Officer, Sivagangai and another vs. Y.Joseph Mercy Rani and another**], are two such orders, wherein, this ratio has been upheld.

4. When Coordinate Benches have already taken such a view, we see no justification on the part of the authorities in having rejected the proposal of the minority schools seeking for approval of the appointments made. Hence, we do not find any merits in the writ appeal. Accordingly, the writ appeal fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

[M.S.R.,J]

[A.D.M.C.,J]

08.11.2024

NCC : Yes/No
Index : Yes/No
RR



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TO

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**M.S.RAMESH,J
AND
A.D.MARIA CLETE, J.**

RR

**ORDER
IN
WA(MD) No.2278 of 2024**

Date : 08/11/2024